

Resolution No.: 15-1250  
Introduced: November 15, 2005  
Adopted: December 6, 2005

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: Council President at the request of the County Executive

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**Subject:** Approval of a Memorandum of Agreement between the County and United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives regarding the Accelerant Detection Canine Program.

**Background**

1. The Executive and Council are authorized by Md. Code Ann., Criminal Procedure Article, §2-105(b) to determine the circumstances under which a County employee, together with all necessary equipment, may lawfully go or be sent beyond the boundaries of the County to any place within or outside the State of Maryland.
2. The Consolidated Appropriations Act of 2005 (Public Law 108-447) authorized and approved the expenditure of federal funds to acquire canines for explosives and fire accelerants detection, to train State and local law enforcement agencies in connection with the canines, and to assist in providing laboratory assistance related to explosives and fire accelerants detection. The United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE) established the Accelerant Detection Canine Program (ADCP) to perform these various functions.
3. The Montgomery County Fire and Rescue Service seeks to participate in the ADCP and to augment the fire protection and investigation services provided within the County by entering into a memorandum of agreement with the BATFE.
4. The County Attorney's Office believes that the Memorandum of Agreement (MOA) attached as Appendix 1 is sound, desirable, practicable, and beneficial for the County.

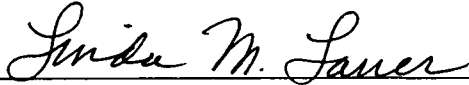
**Action**

*The County Council for Montgomery County, Maryland approves the following resolution:*

1. As authorized by Md. Code Ann., Criminal Procedure Article, §2-105(b), the Council approves the attached MOA, which is made a part of this resolution.
2. As authorized by Md. Code Ann., Criminal Procedure Article, §2-105(b), the Council approves the sending of a County employee, together with all necessary equipment,

beyond the boundaries of the County to any place within or outside the State of Maryland under the circumstances specified in the attached MOA.

*This is a correct copy of Council action.*

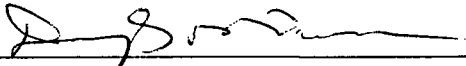


Linda M. Lauer, Clerk of the Council

12/8/05

Date

*Approved.*



Douglas M. Duncan, County Executive

12/16/05

Date

## **APPENDIX 1**

### **MEMORANDUM OF AGREEMENT BETWEEN THE U.S. Department of Justice BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES AND THE MONTGOMERY COUNTY, MARYLAND**

This Memorandum of Agreement (MOA) between the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and, Montgomery County, Maryland (referred to throughout this document as the "County"), establishes the terms for participation in ATF's Accelerant Detection Canine Program (ADCP).

The purpose of this MOA is to set forth the terms and conditions for the ADCP, the County's responsibilities and the terms and conditions for training and deploying an ADCP trained and certified canine to the County. This MOA establishes guidelines for the services to be performed by the County, the training to be provided by ATF, and the requirements of the ADCP.

#### **II. AUTHORITY**

In accordance with Public Law 108-447, Consolidated Appropriations Appropriation Act of 2005, ATF is authorized by Congress to train State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection.

Section 2-105(b), Criminal Procedure Article, Annotated Code of Maryland, permits the County Executive and County Council to determine the circumstances under which a County employee, together with all necessary equipment, may lawfully go or be sent beyond the boundaries of the County to any place within or outside the State of Maryland.

#### **III: RESPONSIBILITIES**

- a. The County will allow its designated handler to be trained in the ATF food reward methodology and participate in the ADCP.
- b. ATF will provide ADCP training to the County's designated handler. Upon successful completion of the course, the handler and assigned accelerant detection canine will receive ATF certification. ATF will provide annual recertification and when time permits, will provide in-service training for the handler and assigned canine.
- c. The County, in consideration for the ATF-provided training, will upon request by ATF, make the canine team available to ATF for

nationwide National Response Team (NRT) activations and other significant investigations involving violations of Federal arson laws if the County's Accelerant Detection Canine (ADC) team is available to provide such assistance. This consideration to respond to NRT activations, and other significant arson investigations, will be in effect for the 5-year performance period of this MOA.

#### IV. Terms and Conditions

The following general terms and conditions will apply to ATF's ADCP and the County's participation in this program.

a. ATF agrees to:

1. Provide the training facility for the ADC Team. The training will be conducted at the ATF Canine Training Center (CTC), 122 Cavalry Drive, Front Royal, Virginia.
2. Purchase the canine for the County, and pay the handler's lodging expenses incurred during the initial 6-week training session. ATF will also reimburse the County and/or canine handler for meal expenses at the current Federal government per diem rate and provide the County's canine handler with all necessary ADCP and canine related equipment and supplies during the initial training program.
3. Provide technical oversight during course curriculum development, training, recertification, and throughout the County's participation in the ADCP.
4. Provide the necessary ATF ADCP personnel, including a forensic chemist, to evaluate, test, and certify the canine for proficiency in detecting ignitable liquid odors. A chemist shall conduct all annual re-certifications.
5. Reimburse the County, in accordance with Federal travel regulations and ATF policies, for travel-related expenses incurred by the handler as a result of participation in NRT activations, or other significant investigations involving violations of Federal arson laws. ATF will not pay the handler's salary, overtime expenses, or other employment benefits incurred during the handler's participation in NRT activations or other significant investigations involving violations of Federal arson laws.

b. The County agrees to:

1. Pay for the handler's salary, overtime, and employment benefits and ensure that the handler is covered by the County's insurance during the initial 6-week training at the CTC, during all subsequent annual recertification and in-service training seminars, and for all activations supporting the

NRT or other significant investigations involving violations of Federal arson laws.

2. Ensure that the handler is available for weekend training during the initial 6-week training course at the CTC.
3. Make the canine team available to ATF for periodic in-service training and for a mandatory 1-week annual recertification seminar. The County will incur all travel related, lodging, per diem salary, overtime, and benefits costs for the ADC team during in-service and annual recertification seminars.
4. Make the canine team, upon request, available to ATF for NRT activations and other significant investigations involving violations of Federal arson laws if available to provide such assistance.
5. Provide food, monthly preventative medication, and veterinary care (after initial training), including an annual physical and heartworm check, for the canine during its working life in the ADCP.
6. Continue to train and maintain the accelerant detection canine in the food reward methodology and protocols in which it is trained.
7. Provide, at its expense, a climate controlled full-time vehicle dedicated to the handler/canine team and suitable for the team's working environment. This vehicle will have air conditioning, heat and an installed prefabricated cage.
8. Require and ensure that the selected handler is responsible for the maintenance, training and handling of the ATF certified accelerant detection canine and no other detection canine during the term of the program commitment.
9. Ensure that the selected handler houses the accelerant detection canine in the handler's residence. The canine shall not be kept in an outdoor kennel or crated indoors on a continual basis.
10. Have available for its use a laboratory capable of conducting comprehensive analysis of ignitable liquids. The County will ensure that the laboratory prioritizes the examination of canine alert samples.
11. Provide to ATF all quarterly operational activity reports related to the accelerant detection canine.

c. General Guidelines

1. All participating personnel shall comply with ATF regulations

and policies during the 6-week initial training course, the annual certification and in-service training seminars, and any NRT or other significant investigation activation: the Department of Treasury Use of Force Policy (Order # 105-1 2); the ATF Conduct and Accountability Policy (ATF Order #21 30.1); the Department of Treasury Personal Property Management Directive (TD # 73-01), and the ATF Investigative Priorities, Procedures and Techniques Policy (ATF Order # 321 0.7B), which includes supervisory controls.

2. If necessary, all participating personnel shall qualify with the firearms issued to them by the County, using and complying with the County's proficiency standards prior to attending training. All participating personnel will be prohibited from carrying firearms at the training site during the 6-week initial training course, in-service training, and the annual certification.
3. All participating personnel who are specifically authorized to use ATF-owned or leased vehicles will be provided with policies concerning the use and care of Government-owned vehicles (GOVs). The vehicles provided by ATF to participating personnel may only be used for official Federal Government purposes. In addition to regulations and policies mentioned above, ATF will provide Department of Treasury regulation 31 CFR, Section 0~209 and ATF Orders 1850.1A, 1850.6A, and 3000.1E (specifically, Chapter C, paragraph 42.
4. Participating personnel will be provided with and made aware of ATF P 2130.1 (August 1997), entitled Standards of Ethical Conduct for Employees of the Bureau of Alcohol, Tobacco, Firearms and Explosives. This includes the Federal Employee Responsibilities and Conduct (5CFR Part 735) and the Department of Treasury Employee Rules of Conduct (31 CFR Part 0), particularly with respect to nondiscrimination. While all County personnel shall be subject to the regulations and guidelines issued by the County, personnel actively participating in the ADCP or in response to criminal activity under the direction and control of ATF will also be subjected to these rules of conduct.
5. The County and ATF agree to indemnify and hold harmless each other from any claims by third parties for property damage or personal injury, within the limitations permitted by federal and state laws, that arise out of their activities to this agreement.
6. Notwithstanding the foregoing, the County and ATF recognize that ATF's ability to indemnify the County is restricted by the Anti-deficiency Act, 31 U.S.C., Sec. 1341, and the Adequacy of Appropriation Act, 41 U.S.C. Sec. 11.

8. The County and ATF recognize that the County's ability to indemnify ATF is limited to the notice requirements, types of liability, and the maximum damage amounts established in the Local Government Tort Claims Act, Section 5-301, *et seq.*, Courts & Judicial Proceedings Article, Annotated Code of Maryland. The indemnity obligation of the County shall not violate Section 311 of the Charter of Montgomery County, Maryland (December 5, 2002).
8. The County and ATF agree that this MOA is subject to the availability of funds.
9. The County and ATF agree to waive any claim against each other for any loss, damage, personal injury, or death that occurs in the performance of this agreement.

#### V. Effective Date, Modifications, and Termination

This MOA is effective upon the date the last party signs below. Any modification or amendments of this MOA must be in writing and will not be enforceable until signed by all parties and approved by the Montgomery County Council and County Executive. Nothing herein is intended to conflict with current ATF, Department of the Justice, State of Maryland, or County directives, rules, or regulations.

The performance period of this MOA shall commence on the first day of the 6-week initial training at the CTC and end upon retirement of the ADC team from service, or, in essence, the working life of the canine. The working life of the canine is estimated to be 5 years after completion of training, however, this period may be extended at the discretion of ATF and the County. ATF will not recertify any canine that has reached nine years of age.

Should the County elect to terminate its participation in the ADCP within 1 year of completion of training, ATF will have the first option to reclaim the canine and provide it to another entity for implementation into the ADCP. ATF reserves the option to reclaim the canine, if during the first year after training, ATF determines that the canine and/or handler are not performing within the standards and protocols of the ADCP, or if the canine has not received proper care as specified by the ADCP training staff. Upon reclaiming the canine, ATF will have the option of providing the County with a replacement canine. It is understood by both parties that ATF reserves the right to deem the canine unsuitable for retraining, and if the handler declines to adopt the canine as a family pet, ATF will determine the canine's final disposition. At the conclusion of the first year after training, the canine will become the County's property. If the handler is reassigned after one year, the canine may be retired with the handler as the ATF ADCP will not retrain or recertify a canine over three years old with another handler. Upon conclusion of its working life, ATF recommends that the handler adopt the canine.

**MONTGOMERY COUNTY, MARYLAND**

\_\_\_\_\_  
Bruce Romer, Chief Administrative Officer

\_\_\_\_\_  
Date

**DEPARTMENT OF JUSTICE, BUREAU OF ALCOHOL, TOBACCO,  
FIREARMS, AND EXPLOSIVES**

\_\_\_\_\_  
Mark Logan, Assistant Director  
(Training and Professional Development)  
Bureau of Alcohol, Tobacco, Firearms and Explosives

\_\_\_\_\_  
Date

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Marguerite R. Moccia  
Assistant Director, Management  
Chief Financial Officer

\_\_\_\_\_  
Date